

1 John McIlhenny, Jr.
2 Assistant Attorney General
3 629 Woodland Sq. Loop SE
Olympia, WA 98504
(360) 459-6600

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

MARIA DE LA O; et al

NO. CV-04-0192-FES

STIPULATED
PROTECTIVE ORDER

RONALD ARNOLD-WILLIAMS

Secretary, et al.

Defendants

MARIA FERNANDEZ et al

[NO. CV-05-0280-EFS]

Plaintiffs,

17

DEPARTMENT OF SOCIAL AND

HEALTH SERVICES: *et al.*

Defendants

1 COME NOW the parties, by and through D. Ty Duhamel, Attorney for
2 Plaintiffs Maria Fernandez, Maria Soledad Chavez, Bertha Mendoza, as
3 individuals and on behalf of all other similarly situated persons, and, Priscila
4 Erazo, Silvia Gonzales, Olga Mercado, Carmela Ramirez, Rosalinda Ramirez,
5 and Rosa Maria Reyez, as individuals; Katrin E. Frank, Attorney for Plaintiffs
6 Maria De La O, Silvia Farias, Barbara Bravo, Adelina Ramirez, Celia Caro,
7 Mayola Madrigal, Rosa Guerrero, Irene Negrete, Irma Contreras, Alejandra Perez,
8 Elizabeth Ramirez, Maria De Favela, Maria Del Carmen Hernandez, Margarita
9 Mata, Alicia Medrano, Veronica Nevarez, Maria Puentes, Alicia Rodriguez,
10 Maria Ruiz, Guadalupe Salas, and Juana Sanchez; Rob McKenna, Attorney
11 General, and John K. McIlhenny, Jr., Assistant Attorney General, attorneys for
12 Defendants Department of Social and Health Services, Robin Arnold Williams,
13 Kenneth Harden, John Bumford, Robin Clawson, Michael Coyne, James Ditzel,
14 Israel Vargas, Dick Hoezee, Kris Boness and Don Smith; and Jennifer Homer,
15 Attorney for Defendants Randall Blackburn, Steve Jensen, Grant County,
16 Washington and the Town of Mattawa, Washington and hereby stipulate and
17 agree to the entry of this Protective Order pursuant to Fed. R. Civ. P. 26(c) and
18 FRE 501. The parties agree that the Department of Social and Health Services
19 records and files and information therein are confidential and privileged. The
parties further agree that Local Rule 10.1(j) (Policy on Privacy and Public Access
to Electronic Case Files) fully applies and supplements the items covered in this
protective order.

20 This protective order shall apply to the following documents, files, or any
1 parts thereof, provided by or received by any of the parties in this litigation:

1 1. Washington State Department of Social and Health Services
 2 (DSHS), Division of Child Care and Early Learning (DCCEL), Moses Lake
 3 Community Service Office (MLCSO), Office of Financial Recovery (OFR),
 4 Division of Fraud Investigation (DFI) and Children's Administration records
 5 relating to the above-named plaintiffs;
 6 2. Personal, identifying information for current or former Washington
 7 State employees;
 8 3. Personal, identifying information, including but not limited to, dates
 9 of birth, alien numbers, social security numbers, passports, and any information
 10 regarding the legal status of an individual Plaintiff, Plaintiffs' employees, parents'
 11 of children in Plaintiffs' care, relatives of Plaintiffs, and witnesses;
 12 4. Handwritten and typed subpoena logs from Olympia and Spokane
 13 offices and search warrants.

14 IT IS HEREBY STIPULATED that the contents and/or existence of the
 15 aforementioned documents and files and any part thereof or therein shall not be
 16 disclosed in any manner or form to any person and/or entities other than the
 17 parties' attorneys, experts retained by the party's attorney(s), their staff, and
 18 individuals otherwise entitled to obtain said information pursuant to statutory
 19 exemptions from confidentiality and other individuals as herein provided.

20 IT IS FURTHER STIPULATED that the parties shall be allowed to use the
 21 aforementioned documents or information in depositions of plaintiffs, defendants,
 22 medical doctors, psychologists, nurses, counselors, health care providers, and
 other person named or identified in any of the aforementioned documents or in
 consulting with any expert witnesses in this case, subject to the conditions set
 forth in this Protective Order.

1 IT IS FURTHER STIPULATED that the files and records may be released
2 to any mediator selected to mediate this matter; subject to the conditions set forth
3 in this protective order.

4 IT IS FURTHER STIPULATED that prior to introducing as evidence, or
5 as part of any filing with the court, any of the aforementioned information or
6 documents a party must review the documents to determine whether information
7 contained within the document may be subject to this Order. For any motion or
8 filing requesting the use, or potential use, of a document covered under this Order,
9 or any document attached as an exhibit, the parties shall file a redacted copy of the
10 document with the court and a separate unredacted version under seal and
11 indicating to the Clerk of the Court that the information is not public information
12 and shall be maintained as confidential from the public.

13 IT IS FURTHER STIPULATED that counsel for the parties shall use all
14 documents and information produced or disclosed pursuant to this Protective
15 Order solely for the purpose of preparation for and trial of this action. Under no
16 circumstances shall information or materials covered by this Order be disclosed to
17 anyone other than as provided in this Order.

18 IT IS FURTHER STIPULATED that not later than thirty (30) days after
19 the conclusion of the proceedings in this action, including any appeal, all
20 documents and information subject to this order, including any copies or
21 summaries thereof, or documents containing information taken therefrom, shall be
22 returned to counsel for the party producing such documents or destroyed by the
party having such documents. However, documents may be retained by a party
for longer periods of time if required by regulations or rules governing the
practice of law, malpractice insurance requirements, firm or program document

1 retention policies, or existing document retention or destruction policies imposed
2 by statute or regulation. A copy of this Order shall accompany any copy of the
3 discovery records or information protected by this Order and released to anyone.
4 No attorney or expert shall disclose any information gained or derived from the
5 aforementioned records to anyone without further order of the court unless the
6 person to whom the information is disclosed is otherwise entitled to obtain said
7 information pursuant to this Protective Order or to statutory exemptions from
8 confidentiality.

9 IT IS FURTHER STIPULATED that in any part of a deposition or other
10 hearing or proceeding in which information from the designated files and
11 documents is to be discussed, any party asserting confidentiality may exclude
12 from the room any person who is not entitled to be shown such information.

13 IT IS FURTHER STIPULATED that any court reporter or transcriber who
14 reports or transcribes testimony in this action at a deposition, hearing or
15 proceeding shall first agree that all testimony and information relating to the
16 documents listed at page 3 of this order shall remain confidential and shall not be
17 disclosed by such reporter or transcriber except to the attorneys for any party, any
18 other person who is present while such testimony is being given, or the Court.
19 The reporter or transcriber shall further agree that copies of any transcript,
20 reporter's notes or any other transcription records regarding any documentation
21 listed at page 3 of this order will be retained in absolute confidentiality and
22 safekeeping by such reporter or will be delivered to the undersigned attorneys or
filed with the court. Each such court reporter or transcriber will sign a copy of the
Confidentiality Agreement.

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1 IT IS FURTHER STIPULATED that nothing in this stipulation shall
2 preclude any party from applying to the Court for additional or different
3 protective provision, or to rescind protective provisions, in respect to specific
4 documents or information or individuals if the need should arise during the
5 litigation.

6 IT IS FURTHER STIPULATED that neither the taking nor the failure to
7 take any action to enforce the provisions of this Protective Order, nor the failure
8 to object to any such action or omission, shall constitute a waiver of any claim or
9 defense in the trial of this action or any other action. The procedures set forth
10 herein shall not affect the rights of the parties to object to discovery on grounds
11 other than those related to confidentiality, or to move to compel discovery, nor
12 shall it relieve a party of the necessity to respond properly to discovery requests.

13 IT IS FURTHER STIPULATED that this Protective Order shall not
14 abrogate or diminish any contractual, statutory or other legal obligation or right of
15 any party or person with respect to any records, files or documentation listed at
16 page 3 of this order. Neither the entry of this order nor the designation of any
17 information as protected under this Protective Order shall be admissible evidence
18 during the pendency of this action. The fact that information is disclosed, used or
19 produced in discovery or trial herein shall not be construed, offered or admitted in
20 any action or proceeding before any court, agency, or tribunal as evidence of or
21 concerning whether or not such information is confidential or proprietary.

22 IT IS FURTHER STIPULATED that this Protective Order shall remain in
23 full force and effect until such time as this Court modifies its terms or releases the
24 parties from its provisions.

December

1 DATED this 6th day of ~~April~~, 2006.

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3 ROB MCKENNA
4 Attorney General

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6 JOHN K. McILHENNY, JR.,
7 WSBA #32195
8 Assistant Attorney General
9 Attorneys for State Defendants

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11 JERRY MOBURG & ASSOCIATES

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15 JENNIFER HOMER,
16 WSBA # 34070
17 Attorney for County Defendants

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COLUMBIA LEGAL SERVICES

D. TY DUHAMEL,
WSBA #10848
Attorneys for Fernandez Plaintiffs

MACDONALD, HOAGUE & BAYLESS

KATRIN E. FRANK,
WSBA # 14786
Attorney for De La O Plaintiffs

ORDER

Pursuant to the foregoing Stipulation between parties, it is hereby
ORDERED that the foregoing Stipulated Protective Order is entered and in
full force and effect until such time as this Court modifies its terms or releases the
parties from its provisions.

DONE IN OPEN COURT this 11th day of December, 2006.

s/ Edward F. Shea

JUDGE EDWARD F. SHEA

Presented by:

ROB MCKENNA
Attorney General

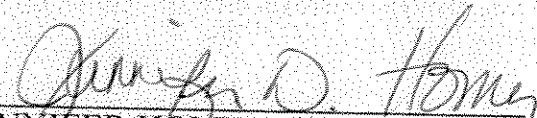
JOHN K. McILHENNY, JR.
WSBA #32195
Assistant Attorney General
Attorneys for State Defendants

Approved as to form/Notice
Of Presentation Waived:

COLUMBIA LEGAL SERVICES

D. TY DUHAMEL,
WSBA #10848
Attorneys for Ferna

1 JERRY MOBURG & ASSOCIATES

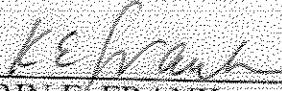
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WSBA # 34070

4 Attorney for County Defendants

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8 KATRIN E. FRANK,
WSBA # 14786

9 Attorney for De La O Plaintiffs

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